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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,701	04/28/2002	Ilan Samson	2613R1-1	7723

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EXAMINER

HYLTON, ROBIN A.

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 12/24/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/049,701

Applicant(s)

SAMSON, ILAN

Examiner

Robin A. Hylton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 April 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Drawings

1. The drawings were received on October 20, 2003. These drawings not approved by the examiner and are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign not mentioned in the description: 23. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign mentioned in the description: 26. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. Claims 3 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The structure of the detachable member is not clearly set forth with regard to "a cylindrical portion attached thereto". Where is it attached? Does it extend away from the member?

The term "HxV" has not been defined in the claim nor the structure represented thereby.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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5. Claims 1-3 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Hayes, Jr. (US 4,915,250).

See each embodiment illustrated in figures 1-4 and 5-6.

To the degree claim 3 is understood in view of the rejection under 35 USC 112, 2nd paragraph above, Hayes, Jr. anticipates the claim.

6. Claims 1-5,7,8,10 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Heinz et al. (US 2,657,836).

See figure 3 depicting passage 6.

Regarding claim 13, the upper portion of the detachable member is a cylindrical portion attached thereto.

Claim Rejections - 35 USC § 103

7. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bachman et al. (US 5,890,621) in view of Boese (3,102,651).

Bachman teaches the claimed cup except for a valve providing a tubular passage having a first and a second end and formed between an inner surface of the lid and/or in inside of a spout.

Boese teaches it is known to provide a valve in a container spout having a tubular passage to restrict the flow of liquid out of the opening.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the valve of Boese into the spout of Bachman. Doing so provides a more durable leak-proof valve.

Regarding claims 11 and 12, Bachman as modified teaches the claimed invention except for the specific dimensions of the passage diameter and capacity. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the

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passage diameter approximately 3mm and the capacity 1.2cc , since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

8. Claims 6, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heinz.

Heinz teaches the claimed invention except for the passage being formed on the spout . It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the passage on the spout, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art.

Regarding claims 11 and 12, Heinz teaches the claimed invention except for the specific dimensions of the passage diameter and capacity. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the passage diameter approximately 3mm and the capacity 1.2cc , since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Response to Arguments

9. Applicant's arguments filed October 20, 2003 have been fully considered but they are not persuasive.

Applicant argues "HxV" is defined in the specification and shown in the drawings. Applicant is reminded that the structure of the claimed invention must be set forth in the claims, since limitations from the specification are not read into the claims, although the claims are interpreted in light of the specification.

Regarding the comments directed to Hayes, Jr., the use of the open term "comprising" does not negate the use of an additional channel in the lid. The structure set forth in the claims are met by the structure of Hayes, Jr.

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In view of applicant's comments directed toward the combination of Freeman et al. and Boese, the rejection is withdrawn. Although it is well known in the art to provide different types of valves in a drinking lid spout to prevent spillage. See Meyers et al. at column 4, lines 43-47.

Conclusion

10. This Office action is made non-final in view of the new grounds of rejection under 35 USC 103 to Bachman et al in view of Boese.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures are cited for their disclosures.

12. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

13. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 872-7306 on the date shown below:

Typed or printed name of person signing this certificate

Signature_____

Date_____

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14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner works a flexible schedule, but can normally be reached on Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on (703) 308-2572.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Bembry at (703) 306-4005.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

RAH
December 19, 2003


Robin A. Hylton
Primary Examiner
GAU 3727